

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WILLIAM DONALD CRUTCHER)	
)	
COMPLAINANT)	
)	
V.)	CASE NO. 94-184
)	
LEXINGTON-SOUTH ELKHORN WATER DISTRICT)	
)	
DEFENDANT)	

O R D E R

On May 5, 1994, William Donald Crutcher filed a complaint against the Lexington-South Elkhorn Water District ("Lexington-South Elkhorn") alleging that the utility acted in a discriminatory manner by refusing to extend a water main to his property on Drake's Lane in Jessamine County, Kentucky. Pursuant to the Commission's May 11, 1994 Order, Lexington-South Elkhorn filed an answer stating that on the basis of a commitment to purchase water by a majority of the residents on Drake's Lane, and a determination of economic feasibility, a water main was installed on Drake's Lane for the express purpose of serving those residences lying within the utility's territorial boundary. Lexington-South Elkhorn further stated that Crutcher's residence is located outside the utility's territorial boundary and this is the reason, rather than any discrimination, for refusing to extend the water main to Crutcher's property on Drake's Lane.

The Commission subsequently directed the parties to address the issue of the location of Crutcher's residence. In response, Crutcher admits that the residence he owns is outside the utility's territorial boundary. However, he maintains that since a portion of his property is within the boundary, Lexington-South Elkhorn is obligated to extend its water main across his property. In reply, Lexington-South Elkhorn claims that Crutcher's admission that his residence lies outside the utility's boundary is fatal to his complaint and that water service could be obtained from adjacent utilities including the cities of Nicholasville and Wilmore and Spear Water Company, successor in interest to the former Spears Water District whose territory included Crutcher's residence.

Based on the evidence of record and being sufficiently advised, the Commission finds that there are no material facts in dispute and this case can be decided by applying the applicable law to the facts.

Crutcher owns a residence in the vicinity of Drake's Lane that is not within the territorial boundary of Lexington-South Elkhorn, although he owns property that is within the boundary. Thus, there is no residence nor any residents on Crutcher's property within the territorial boundary of Lexington-South Elkhorn.

Lexington-South Elkhorn is a water district organized under KRS Chapter 74. Pursuant to KRS 74.100(2), a water district is authorized to:

[O]rder any work or improvement it deems necessary to extend the necessary water mains and water laterals in the district to supply

water to the residents of the district. . . .
(emphasis added.)

To require Lexington-South Elkhorn to extend its water main to Crutcher's property would violate KRS 74.100(2) since the extension would not be "to supply water to the residents of the district." Lexington-South Elkhorn properly refused Crutcher's request for a water main extension and his complaint should be dismissed.


In reaching this decision the Commission has given no consideration to the character or use of Crutcher's property since those factors are not relevant. Furthermore, Crutcher's reliance on the reference to "citizens and landowners" in KRS 74.100(1) is misplaced. By its unambiguous terms, KRS 74.100(1) only authorizes a water district to purchase an existing water supply line or water system which is within the district's boundary and supplying water to citizens and landowners. In this instance there is no issue of acquiring an existing water line or system. Rather, the issue is the extension of an existing water main which falls exclusively under KRS 74.100(2).

IT IS THEREFORE ORDERED that Crutcher's complaint be and it hereby is dismissed.

Done at Frankfort, Kentucky, this 26th day of January, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

ATTEST:


Executive Director


Commissioner